IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A.No.1382 of 2004
Date of Decision : 11.10.2007

Bani Singh .....Appellant

versus

Kanwar Singh .....Respondent

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present : Mr.J.V.Yadav, Advocate for the appellant.
Mr.N.S.Shekhawat, Advocate for the respondent.

-.-

ORDER

HEMANT GUPTA, J.

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the learned Courts below whereby his suit for declaration claiming to be owner of the suit land, was declined, but a finding was returned that in fact, the plaintiff is tenant since the year 1940. The decree for permanent injunction was declined on the ground that since the plaintiff has denied the title of the landlord, therefore, his tenancy stands forfeited.

Learned counsel for the appellant has vehemently argued that even if the plaintiff is not entitled to declaration as owner, then the plaintiff is entitled to a decree for permanent injunction on the basis of the finding recorded that he is tenant and that the plaintiff can be dispossessed only in accordance with law as tenant.

Learned counsel for the respondent has no objection if the decree passed by the learned First Appellate Court is modified to the effect

that the plaintiff be granted a decree for permanent injunction, to be dispossessed only in accordance with law.

In view of the consent of the parties, the present appeal is disposed of by modifying the judgment and decree passed by the learned First Appellate Court to the effect that the plaintiff shall not be dispossessed except in accordance with law.

11-10-2007 **(HEMANT GUPTA)**
*mohinder **JUDGE**